

1 **UNITED STATES DISTRICT COURT**
2 **SOUTHERN DISTRICT OF NEW YORK**

3 **LUIS RUIZ,**

Case No.: 1:15-cv-03476-LGS

4 **Plaintiff,**

5 **v.**

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

6 **SANTANDER CONSUMER USA, INC.,**

(Unlawful Debt Collection Practices)

7 **Defendant.**

9 **COMPLAINT**

10 LUIS RUIZ ("Plaintiff"), by and through his attorneys, KIMMEL & SILVERMAN,
11 P.C., alleges the following against SANTANDER CONSUMER USA, INC. ("Defendant").
12

13 **INTRODUCTION**

14 1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act
15 ("TCPA").
16

17 **JURISDICTION AND VENUE**

18 2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See Mims v.
19 Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).
20

21 3. Defendants' conduct business in the State of New York, therefore, personal
22 jurisdiction is established.

23 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).
24
25

PARTIES

5. Plaintiff is a natural person residing in New York, New York.

6. Plaintiff is a "person" as that term is defined by 47 U.S.C. § 153(39).

7. Defendant is a company with an office located at 8585 N. Stemmons Frwy., Suite 1100 N, Dallas, Texas 75247.

8. Defendant is a "person" as that term is defined by 47 U.S.C. § 153(39).

9. Defendant acted through their agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

10. Plaintiff has a cellular telephone number that he has had for over a year.

11. Plaintiff has only used this number as a cellular telephone number.

12. The phone number has been assigned to a cellular telephone service for which Plaintiff incurs a charge for incoming calls.

13. Beginning in or before December 2014, and continuing through January 2015, Defendant called Plaintiff on his cellular telephone on a repetitive and continuous basis.

14. During the relevant period, Defendant relentlessly called Plaintiff on his cellular telephone.

15. When contacting Plaintiff on his cellular telephone, Defendant used an automatic telephone dialing system.

16. Defendant's telephone calls were not made for "emergency purposes."

17. In early December 2014, Plaintiff revoked any consent previously given to Defendants to place telephone calls to his cellular telephone number.

1 18. Defendant heard and acknowledged Plaintiff's revocation of consent and
2 demand to stop calling his cellular telephone number.

3 19. Despite the above, Defendant persisted in calling Plaintiff on his cellular
4 telephone for several weeks.

5
6 **DEFENDANT VIOLATED THE**
7 **TELEPHONE CONSUMER PROTECTION ACT**

8 20. Plaintiff incorporates the forgoing paragraphs as though the same were set forth
9 at length herein.

10 21. Defendant initiated multiple automated telephone calls to Plaintiff's cellular
11 telephone using an automatic telephone dialing system.

12 22. Defendant's calls to Plaintiff were not made for emergency purposes.

13 23. Defendant's calls to Plaintiff were not made with Plaintiff's prior express
14 consent.

15 24. Defendant's acts as described above were done with malicious, intentional,
16 willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the
17 purpose of harassing Plaintiff.

18 25. The acts and/or omissions of Defendants were done unfairly, unlawfully,
19 intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal
20 defense, legal justification or legal excuse.

21 26. As a result of the above violations of the TCPA, Plaintiff has suffered the losses
22 and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles
23 damages.
24
25

1 WHEREFORE, Plaintiff, LUIS RUIZ, respectfully prays for judgment as follows:

- 2 a. All actual damages suffered pursuant to 47 U.S.C. §227(b)(3)(A);
- 3 b. Statutory damages of \$500.00 per violative telephone call pursuant to 47
- 4 U.S.C. §227(b)(3)(B);
- 5 c. Treble damages of \$1,500 per violative telephone call pursuant to 47
- 6 U.S.C. §227(b)(3);
- 7 d. Injunctive relief pursuant to 47 U.S.C. §227(b)(3); and
- 8 e. Any other relief deemed appropriate by this Honorable Court.
- 9

10 **DEMAND FOR JURY TRIAL**

11 PLEASE TAKE NOTICE that Plaintiff, LUIS RUIZ, demands a jury trial in this case.

12 Respectfully submitted,

13

14 Dated: April 30, 2015

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